IN THE HIGH COURT OF JUDICATURE AT BOMBAY

APPELLATE SIDE

WRIT PETITION NO.2727 OF 2005

Mr.Tajas Deshpande i/b M/s.D & D Associates. for the Petitioner.

Mr.S.M.Kamble for the Respondent.

Office Notes, Office Memoranda of Coram, appearances, Court's order or directions	Court's or Judge's orders
	CORAM: D.K.DESHMUKH, J.
	DATED: 5th October,2005

P.C.:

1. Both the courts below have concurrently found that on the basis of the sale deed on which the Plaintiff was relying, a finding cannot be recorded at the prima facie stage that the Plaintiff is in possession of the entire land.

2. I have heard the learned Counsel appearing for the Plaintiff/Petitioner in detail. I find that in the sale deed it is clearly recited that there are other

persons cultivating the suit land. That the Petitioner is aware of this cultivation and that he has purchased the land subject to this cultivation. In the plaint, admittedly there are no averments made disclosing as to whether the persons who were cultivating the land ceased to be on the land or they are still continue on land. If they have ceased to be on the land, when they have ceased to be on the land. Really speaking therefore the Plaintiff was guilty of suppressing the relevant facts. Therefore, in any case the Petitioner is not entitled to any interim order in his favour, which is in the discretion of the court. Petition is devoid of any substance. It is rejected.